Supreme Court, U.S.
FILED

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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN PALMA—PETITIONER

vs.

STATE OF NEW YORK WORKERS COMPENSATION BOARD AND SPECIAL FUNDS COMMISSION—RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

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(Your Name)

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## Questions Presented

1) Is it a breach of the 11th Amendment if any state agency suspended a Federal Doctor and interceded with one's Federal Military Medical records for purposes of making a state worker's Compensation Board decision, especially knowing that the injury originally occurred within the state?
2) Is it a violation of the 14th Amendment if a workers compensation law judge insisted and persisted that I get a letter from my Military Doctor concerning my condition of P.T.S.D., and telling me that there was no need for me to get any other doctor?
3) And if the above question is a violation of the 14th Amendment is it considered interference, coercion, and intimidation and the subject to State immunity?

Table of Contents


| | |
|---|---|
| Questions Presented | Page(i) |
| Table Of Contents | Page(ii) |
| Table of Authorities Cited | Page(iii) |
| Constitutional and Statuary Provisions Involved | Page(iv) |
| Petition | Page(1) |
| Statement of the Case | Page(3) |
| Reasons for Granting the Petition | Page(4) |
| Conclusion | Page(5) |
| Contents of Appendix | Page(1a) |

Table of Authorities Cited

Statures and Rules

Title 42 U.S.C. 12202 – State Immunity—2nd Paragraph
Title 42 U.S.C. 12203(b) (interference, coercion, and intimidation) 2nd paragraph
Title 42 U.S.C. 12101 (b)(3) and (4) Paragraph 2
Title 42 U.S.C. 12132 (a)(4)(5) 3rd Paragraph
Title 42 U.S.C 12101 (a)(4)(5) 3rd Paragraph

Other

11th Amendment—2nd Paragraph
14th Amendment—2nd Paragraph

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The 11th amendment of the U.S. Constitution
The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

The 14th Amendment: No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S; nor shall any state deprive any person of life, liberty or property, without due process of law nor deny to any person within its jurisdiction the equal protection of the laws.

Chapter 126: Equal opportunity for individuals with disabilities—Title 42 U.S.C 12202—State immunity. The state shall not be immune under the 11th amendment of the constitution of the U.S. from an action in federal or state court of competent jurisdiction for a violation of this chapter.

Title 42 U.S.C 12203(b) interference, coercion or intimidation: It shall be unlawful to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment, any right granted or protected by this chapter.

Title 42 U.S.C 12101(b)(3) and (4): It is the purpose of this chapter, (3) to ensure that the federal government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day by day by people with disabilities.

Title 42 U.S.C 12132 Subject to the provisions of this subchapter, no qualified individual with a disability shall by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity.

Title 42 U.S.C. 12101 (a)(4) and (5): (4) Unlike individuals who have experienced discrimination in the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability, have often had no legal recourse to redress such discriminations. (5) Individuals with disabilities continually encounter various forms of discrimination including outright intentional exclusion.

## PETITION

The Compensation Board treated me differently because the acting judge did not allow me to choose my own doctor like all the other people with disabilities have the chance of doing. Also, I was intimidated and coerced to tell my V.A. Federal Dr. Jasser to submit a letter about the P.T.S.D. He also was intimidated because he was reluctant to testify and he was subpoenaed to come in. When he testified, he changed his testimony from what was written in his initial letter.

Because of the above facts, the compensation board is not immune under the 11th amendment to the Constitution of the United States. Title 42 U.S.C. 12202 State immunity and (12203(b) interference, coercion, and intimidation) and 12101(b)(3)(4). It is the purpose of this chapter to insure that the federal government plays a central roll in enforcing the standards and to invoke the sweep of congressional authority, including the power to enforce the 14th amendment.

How the board of special funds treated me differently by reason of my disability, 42 U.S.C. 12132

First, the compensation board and special funds, never accepted P.T.S.D. as a disability with the N.Y.C. Dept. of Corrections. During the time I filed for P.T.S.D. Title 42 U.S.C. 12101 (a)(4) and (5) individuals with disabilities continually encounter various forms of discrimination including outright intentional exclusion.

Second, the Workers Compensation Board refused to accept my P.T.S.D as related to the 7/4/75 assault on January 8, 2002. Even though new medical evidence was presented to be considered in the interest of justice. They discriminated against me by saying my two prominent doctor reports were only in their opinion. And they failed to say that Dr. Conigliaro's statement was his belief and not his opinion. Even if both doctor reports were considered in their opinion, does this make their only doctor Aldin's opinion from the board and opinion from God? Dr. Aldin is no more qualified than my two doctor's in their reports. They even overlooked federal Dr. Jasser's testimony when he stated that the 7/4/75 assault was a contributing factor even though I had 100% Military related P.T.S.D.

If I were not interfered or obstructed to bring my own doctor, from the very beginning, this would not have gone to this extent. The above was also taking to the State of New York Supreme Court Appellate division Third Judicial Department and denied because that they cannot conclude that the Boards denial of the claimant's application was arbitrary or capricious or an abuse of discretion under the circumstances presented.

Also, I want to make this very clear to the court, that I'm not looking to prosecute or have anyone reprimanded. All I'm looking for is a wrong that was done to me to be corrected, in the interest of justice.

## Statement of the Case

I have filed that I wasn't given due process of law under the14th Amendment because I wasn't given the right to choose my own doctor during the New York State Compensation Board hearings. This was denied because immunity of the 11th Amendment. I have also filed that I was discriminated by the Board or Special Funds because of my disability and this was dismissed because of the lower courts stated I failed to state a valid claim A.D.A. because I never stated how the board treated me differently because of my disability.

The above is from the Federal Courts.

It is important to grasp what I'm trying to say, so I'll try to sum it up in one paragraph. Because discrimination can be hidden but not totally undetected if under scrutiny. I was treated differently by other people with disabilities who go to compensation cases, because I wasn't given the same opportunity to get my own doctor for my defense as all other people with disabilities get. And because I was denied regular activities and procedures of the court, I was also denied or cheated from a benefit.

## Reasons for Granting the Petition

The United States Court of Appeals for the Second Circuit has decided an important question of Federal law that has not been but should be settled by this court and also that an erroneous decision had been made. I believe there has been no proper decision made concerning the breach of the 11th Amendment. This challenge has not been appropriately addressed. These are the facts: The New York Compensation Board subpoenaed my federal doctor and summoned my military medical records to make a final decision on my New York State Compensation injury. I believe since they crossed this barrier by going into Federal military records and subpoenaing my VA federal doctor to testify that they aren't protected under the 11th Amendment. My military privacy was invaded. And because I was a military soldier working for the federal government that I have the right to have the federal government to intervene in this case.

The erroneous part is that the 11th Amendment cannot protect or make one immune because of title 42 U.S.C 12202 State immunity, and title 42 U.S.C. 12203(b) interference, coercion, or intimidation of chapter 126 Equal Opportunity for individuals with disabilities and title 42 U.S.C. 12101 (a)(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion. When the workers compensation law judge intimidated me and insisted that I get a letter from my VA federal doctor and coercing me by telling me I didn't need any other doctor and then subpoenaing VA Federal Doctor to testify, she blatantly violated all the above. I was treated very differently with my disability because I was coerced into doing what she wanted and not like other people with disabilities who got their own doctors. Maybe it's because she didn't see P.T.S.D as a normal disability.

## CONCLUSION

The petition for a writ of Certiorari should be granted.

Respectfully Submitted,

John Palmer

Date: May 4, 2006